

REMARKS

Reconsideration of the pending application is respectfully requested on the basis of the following particulars:

Rejection of claims 1-3 under 35 U.S.C. § 103(a)

Claims 1-3 presently stand rejected as being unpatentable over Japan 2002-28123 (hereafter Japan '123) in view of Casoli (U.S. 4,739,781). This rejection is respectfully traversed for the following reasons.

To establish a prima facie case of obviousness, three basic criteria first must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine the references teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references (or references when combined) must teach or suggest all the claim limitations. MPEP §2143. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F 2d 488, 20 USPQ2d 1438 (Fed. Cir.1991).

Section 2143.03 of the MPEP states that all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F .2D 1382, 1385, 165 USPQ 494,496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F .2d 1071, 5 USPQ2d 1596(Fed. Cir.1998).

Independent claim 1 is directed to a dishwasher including a main body having generally a box shape with an open front, a washer tub being extractable from and retractable into the main body through the open front by means of slide rail assemblies, the washer tub having an open top, ***a lid being located at an upper part of the main body*** when the washer tub is fully extracted and being moved downward as the washer tub is

retracted, the lid closing the open top of the washer tub when the washer tub is fully retracted to be accommodated in the main body, and *an extension member extending backward from a top rear portion of the washer tub*, wherein, *when the washer tub is fully extracted from the main body, an inner rear wall of the washer tub is located in front of a front end of the main body and a free end of the extension member is placed under the lid.*

In accordance with the present invention, the extension member 57 is designed in such a manner that, when the washer tub 32 is fully extracted, drawn out to a position of maximum extraction wherein *the inner rear wall of the washer tub is located in front of the front end of the main body*, the *free end "E" of the extension member is positioned at a location under the central portion of the lid 60 and behind the front bottom end "D" of the lid 60*. Therefore, when the washer tub 32 is retracted into the main body 31, the extension member 57 can move along a bottom surface of the lid 60, guiding the washer tub 32 to the tub accommodation position *without being hindered by the front upper end "C" and/or the front bottom end "D" of the lid 60*, and *without causing damage to a packing 78 provided at a bottom periphery of the lid 60* (page 14, lines 7-17 and FIG 14 of the present application).

In contrast, in the dishwasher disclosed by Japan '123 the inner rear wall of the washer tub remains *below and behind the front end portion of the main body, and below and behind the front end of the lid* when the washer tub is fully extracted. (*Japan '123*; Figs. 1 and 2). Further, the unnumbered part beneath element 145 appears to be simply a member for holding the element 145, which is a wiper-blade (water-proof sheet) for removing water droplets from the bottom surface of the lid (seal plate) when the washing tub is drawn out from the washer body. (*Japan '123*; Abstract).

There is no teaching or suggestion that the washer tub is ever to be drawn out of the main body to a position wherein the rear wall of the tub is in front of the front end portion of the main body. On the contrary, the function of the element 145, taken in conjunction with the "stop members" (unnumbered round protrusions on the bottom surface of the lid 144 seen in several figures and most clearly in Fig. 2) suggest that it

would be undesirable to withdraw the washing tub to an extend further than shown, since damage to both the wiper-blade (element 145) and the stop members would result.

Further, Japan '123 offers no teaching or suggestion that the unnumbered part beneath element 145 has a free end placed under the lid when the inner rear wall of the washer tub is located in front of the front end of the main body, and there can be no such teaching since there is no teaching or suggestion even that the washer tub may be so withdrawn. In fact, Japan '123 offers no teaching or suggestion of *any* means to guide the washing tub back into a closed position (from such an extended position) while avoiding any damage between conflicting edges or parts of the washing tub and the main body or lid.

While Casoli discloses that the inner rear wall of the washer tub is located in front of the front end of the main body when the washer tub is fully extracted from the main body, Casoli fails to disclose or suggest any extension member that *extends the lid and behind a front edge of the lid*. In fact, Casoli uses a lid that is disposed on the washing tub, and not disposed within the main body as in the present invention. Accordingly, such an extension simply has no place, and cannot function as claimed within the structure of Casoli.

Therefore, Japan '123 and Casoli, either together or in combination, fail to disclose or suggest each and every element set forth in claim 1 of the present application. Further, there is no teaching or suggestion to modify Japan '123 according to the inner rear wall (or any other teaching or suggestion) of Casoli since Japan '123 teaches the location of the wiper blade 145 to be at the *top edge of the rear wall*, and it is clear that the wiper blade 145 cannot be withdrawn beyond the stop members or beyond the front edge of the lid.

There can be no teaching or suggestion for modification of Casoli according to the teachings of Japan '123 (or any other teachings) to reach the present invention since such a modification of Casoli would require such modification (changing the entire operation and location of the lid at the very least) that Casoli would be drastically changed its principal of operation, by requiring a change from a manually operated lid that travels with the

washing tub as the washing tub is withdrawn from a cabinet interior, to be lifted outside of the cabinet interior, to an automatically operated lid disposed within the cabinet interior.

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). Combination or modification of references is improper if the “suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate.” 270 F.2d at 813, 123 USPQ at 352).

Therefore, Japan ‘123 and Casoli fail to establish a *prima facie* case of obviousness of claim 1 of the present application, and it is respectfully submitted that claim1, and the dependent claims 2-4, are allowable over the cited references. For at least these reasons, the withdrawal of the rejection is respectfully requested.

Conclusion

Every effort has been made to place the application fully in condition for allowance, and to remove all issues raised by the Examiner in the Official Action.

In view of the amendments to the claims, and in further view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is requested that claims 1-4 be allowed and the application be passed to issue.

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Examiner: F. Stinson
Art Unit: 1746


Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects, in order to place the case in condition for final allowance, then it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case be passed to issue.

Alternatively, if any issues remain that may be resolved by a telephone or facsimile communication with the Applicant's attorney, the Examiner is invited to contact the undersigned at the numbers shown.

Respectfully submitted,

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